Incident Report BERTHOUD POLICE DEPARTMENT

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EVIDENCE:

Data CD containing FTP logs.

ATTACHED DOCUMENTS:

Emails from Jen Rotar
Emails from John Bauer
Court Order for Production of Records
Witness Statement from John Bauer
Fax log
Proof of Service

Report Officer	Printed At	
B5231/YACHIK, JEREMY N	11/09/2010 14:40	Page 2 of 4

Incident Report BERTHOUD POLICE DEPARTMENT

10-541

Supplement No ORIG

Narrative

WEAPONS/INJURIES:

None

PHOTOGRAPHS:

None

INVESTIGATION:

On 10/08/2010 at approximately 1000hrs Chief Johnson referred a case to me involving a possible computer crime that occurred on 08/11/2010 against the Berthoud Mainstreet's web site that was reported to him by John Bauer.

Chief Johnson said John e-mailed him a statement that he would forward to me indicating that someone had deleted the Berthoud Mainstreet website at www.Berthoudmainstreet.org and John believed it to be Jen Rotar that deleted the site.

I received John's statement from Chief Johnson. In the statement John said he checked the web site statistics on 08/25/2010 and noticed a "Page not Found" statistic. When John checked the website he discovered that it was gone. John called "Go Daddy", which is the host of the website, and was able to recover the FTP (File Transfer Protocol) logs that indicated someone from IP (Internet Protocol) address 174.29.150.58 had accessed the FTP files on 08/11/2010 at 1442hrs and deleted all of the data files associated with the website. John stated he was able to determine through the Internet that the IP address belonged to Qwest. John further stated that he called Qwest and the person he spoke with at Qwest told him the IP address was assigned to Jen Rotar on 08/11/2010 at 1442hrs. John stated that he filed a complaint at abuse@qwest.net and a police report.

I spoke with John on 10/21/2010 and John stated that the website was deleted shortly after the Berthoud Mainstreet board decided to go with a different web developer and the decision was published in the Berthoud Surveyor. I asked John to email the FTP logs to me and copies of any pertinent e-mails from Jen Rotar. John stated that he would and I received those e-mails later the same day.

I contacted Jen Rotar and informed her of the issue with the web site. Jen stated that she was the webmaster for the Berthoud Mainstreet website, had designed the site and was providing the service voluntarily. Jen said she had no idea the site was down and that no one had called her to ask about the site. Jen stated that Eric Boyd with Berthoud Mainstreet contacted her via e-mail in January asking if she could update the site. Jen said she emailed Eric back and said she could but would have to charge her hourly rate of \$45.00 an hour. Jen said Eric replied that he would let the Board know and would advise her of their decision. Jen stated that was the last she heard from the Berthoud Mainstreet program about the web site. I asked Jen if she could contact Qwest and see what her IP address was on 08/11/2010 at 1442hrs and she stated that she would.

On 10/22/2010 Jen sent me an email stating that she had contacted Qwest and they told her she did not ever have that IP address. Jen also stated that Qwest did not show that her account information had been accessed at all during August except for August 28th when she called due to Internet connection problems.



I called Qwest on 10/22/2010 and asked if they could tell me who the IP address belonged to on 08/11/2010 at 1442hrs and they would only confirm that the IP address was one allocated to them but would not provide any subscriber information, not even the state the IP address originated from.

On 10/29/2010 I obtained a Court Order for Production of Records for subscriber information for IP address 174.29.150.58. I faxed the Court Order to Qwest's Security Response Center on 10/29/2010 at 1708hrs. I received a response via email at 1148hrs on 11/01/2010 indicating that the IP address was assigned to Jen Rotar on 08/11/2010 at 1442hrs.

On 11/03/2010 at approximately 1600hrs I contacted Deputy District Attorney Mike Pearson and screened the case with him over the phone. DDA Pearson stated that he did not believe there was sufficient evidence in this case to meet the requirement of Probable Cause to charge Jen Rotar with computer crime.

RECOMMENDATION:

Report Officer	Printed At	
B5231/YACHIK, JEREMY N	11/09/2010 14:40	Page 3 of 4

Incident Report BERTHOUD POLICE DEPARTMENT

10-541

Supplement No ORIG

Narrative

Unfounded

DISPOSITION:

Closed

(END OF REPORT)

CR# 10-541

BERTHOUD POLICE DEPARTMENT

328 Massachusetts Av. P.O. Box 1229, Berthoud CO 80513

Office: (970) 532-2611 Fax: (970) 532-3534

CR# 10-541

VOLUNTARY STATEMENT

Name: John M. Bauer

DOB: 05/21/1963

P.O. Box 1561, Berthoud, CO 80513

DL#: 92-015-2825 Phone# HM: (970) 532-2669 Cell: (970) 744-8682 Date/Time Occurred: 08/25/2010 - 08/26/2010 Location: Online - Internet

I volunteer the following information of my own free will, for whatever purpose it may server: (Begin with date, time, and location of incident):

On the afternoon of Wednesdy, August 25, 2010, I logged onto the hosting server where the Berthoud Main Street Program web site is loaded. I did this to capture statistics on the pages that have been frequented most, as this was being requested of our new web designer.

As I was capturing the statistics, I noticed a new set of statistics that I hadn't seen before. These statistics referred to how requests returned a "page not found" to the end user. This alarmed me as I didn't recall any of our links being broken. I proceeded to open a Internet browser window and entered the URL of our web site: http://www.berthoudmainstreet.org. I was alarmed to receive a "Page Not Found" as a result.

I immediately used the hosting features of our hosting company, GoDaddy, to see what happened to our front page. Much to my alarm, all the files for our web site were gone. I proceeded to contact GoDaddy support and speak with a technician. He walked me through finding when the last time our files were there. The backup for 08/10/2010 showed the files there, but there were gone by the time the backup of the site ran on the evening of 08/11/2010.

I inquired how this would have happened. He informed me that the logs did not show anyone logging into the hosting site directly using our account, but apparently someone logged into the server directly using the File Transfer Protocol (FTP) utility and accessing the server directly using separate login ID and password. I inquired which account and password and I was informed that this was a separate ID and password that was set up when the site was site was set up. As we had Jennifer Rotar from Rialiable Buisnesss Services volunteer to set this web site and hosting service on behalf of the Berthoud Main Street program, I was not aware of this separate account.

I asked how to restore the files back and the GoDaddy support analyst showed me how to restore all of our files. I did so with the analyst on the phone and then tested to make sure the site was back up. I then asked the support analyst to see I could get information or a log of when someone logged into the system and what they did while on there. He stated that he had entered a request from the server team to run an FTP log for August to show the activity on my site. Once the log was generated, I would receive an email with instructions on how to download the log.

Date:	Initials:	
AP MCC 6		

CR#	

On Thrusday, August 26, I received an email from Go-Daddy informing me that the log was now available (see email attached). I downloaded the log and it showed that on 08/11/2010 at approximately 14.42:41, someone logged into the server using the "berthoudmain" FTP account from IP address 174.29.150.58 and deleted all of the files for the Berthoud Main Street Program web site. I did a reverse IP lookup on 174.29.150.58 and found that this IP address was issued to a Qwest customer during the timeframe of 08/10/2010 and 08/12/2010..

R

I using the information from the reverse lookup results, I contacted Qwest customer support. Speaking to technician on the phone, he confirmed that the IP address was issued to Qwest DSL customer Dan and Jennifer Rotar from Berthoud, Colorado. The technician also informed me to follow up with an email to abuse@qwest.net as well as to file a police report on the incident.

I thanked the technician and followed up with sending an email to <u>abuse@qwest.net</u> and filing a report with the Berthoud police department.

Date: ______ Initials: _____

From:

support@godaddy.com

Sent:

Wednesday, August 25, 2010 10:05 PM

To:

Subject:

jbauer@berthoudmainstreet.org
Update [Incident ID: 9709529] - Hosting - berthoudmainstreet.org: FTP Log Request.

24// Sales & Support. (480) 505-887// = 24// Billing Support. (480) 505-8855	
Our support staff has responded to your request, details of which are described below:	
Discussion Notes Support Staff Response Dear Sir/Madam,	
Thank you for contacting Hosting Support.	
The FTP logs you have requested for berthoudmainstreet.org have been uploaded to the root directory hosting account under the name berthoudmain_ftp_logs.txt.	of your
Please contact us if you have any further issues.	
Regards, Jude C. Advanced Hosting Support	lame.
If you need further assistance with this matter, please contact customer service at (480) 505-8877 and reference ID: 9709529]. Please let us know how we are doing by completing the survey located here .	encessessesses
Thanks, GoDaddy.com, Inc.	
P.S. As a Go Daddy customer you're already a member of our affiliate program. Click here to start earning comminstantly.	nission
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Know what you want? Find it quickly with these direct links:

1

Hosting Options > Web Hosting

Web Site Design

Email Plans > Web-Based Email **Business Solutions**

Security & Privacy > SSL Certificates

From:

John M. Bauer [jbauer@berthoudmainstreet.org] Thursday, October 21, 2010 5:00 PM jyachik@berthoud.org

Sent:

To:

Subject: Attachments: FTP Logs for Berthoud Main Street BerthoudMainFTPLogs_20100811.pdf

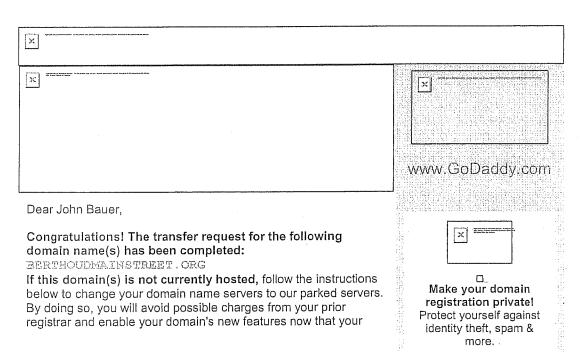
Here are the FTP logs.

John M. Bauer Board Director Organization Committee Chair Berthoud Main Street Program P.O.Box 254 Berthoud, CO 80513 (970) 532-5199 jbauer@berthoudmainstreet.org

Great - thanks John. Eric. Can you please re-send me the info about the farmers' market for the main street site? Thanks, Jen From: John M. Bauer [mailto:jbauer@berthoudmainstreet.org] Sent: Wednesday, May 06, 2009 10:00 PM To: 'Eric Boyd' Cc: 'Jen Rotar' Subject: FW: Domain Transfer Confirmation FYI, We have transferred where we maintain our web name. We now host and maintain our web name with Go Daddy. Cheers. John M. Bauer Board Director Organization Committee Chair Berthoud Main Street Program (970) 532-5199 jbauer@berthoudmainstreet.org

From: transfers@godaddy.com [mailto:transfers@godaddy.com]

Sent: Wednesday, May 06, 2009 8:51 PM To: jbauer@berthoudmainstreet.org Subject: Domain Transfer Confirmation



transfer is complete.

Learn more

Log in to modify your name servers. To safely log in:

- Go to the <u>GoDaddy.com</u> home page and log in with your username or customer number and password.
- 2. From the My Products list, you can manage, renew, and upgrade your products and services.

If you are going to be hosting the domain(s) with <u>GoDaddy.com</u>, once the hosting account is set up there will be no need to modify the name servers.

It is also important that you verify that your contact information is complete and up to date. Failure to keep your contact data current may result in the cancellation of your domain name.

If you need any further assistance or technical support, call us at (480) 505-8877 day or night, or email us at support@godaddy.com. We appreciate your business!

Sincerely, GoDaddy.com

P.S. Learn how to improve your business, exchange ideas and share your expertise, connect with Internet entrepreneurs and more at our new online business community, Go Daddy Connections. Log on today!

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Take 10% off your order.?

Simply enter gdbb22 in your shopping cart or mention the offer code when you call (480) 505-8877.

Tell Me How To:

| Use FREE domain locking | Manage my free hosting** account | Get the most out of my domain name | Set up my free Quick Blogcast | Get a domain for only \$1.99***

Prices are current as of 5/6/2009, and may be changed without notice.

*Not applicable to sale priced domain names, bulk domains, premium domains, Sunrise/Landrush domain registrations, discounted memberships or maintenance plans; additional disk space and bandwidth renewals, custom page layouts, Go Daddy Marketplace™ products, posters, die-cast cars or gift cards. Discount reflected in your shopping cart — cannot be used in conjunction with any other offer or promotion. Offer subject to change without notice.

**Free hosting, photo album and blog services are ad-supported. Ad-supported Web sites contain relevant online advertising on a small portion of the site, but DO NOT include obtrusive pop-up ads.

***Plus ICANN fee of 20 cents per domain name year. Visit our Web site for details.

Copyright © 2009 GoDaddy.com, Inc. All rights reserved.

GoDaddy.com, Inc.

Receipt#: 167101775

DATE: 5/1/2009 10:02:07 AM

Customer #: 8909743

Billing Information

John Bauer

Berthoud Main Street Program

P.O. Box 254

Berthoud, CO 80513

Daytime Phone: 9705325199

Email: jbauer@berthoudmainstreet.org

Name: John M. Bauer

Paid: Visa (\$83.88)

Account Number: ##########4206

Label	Name	<u>Attributes</u>	<u>Unit</u> Price	<u>Today's</u> <u>Price</u>	Qty	Extra Disc.	<u>Total</u> Price
16730-1	Deluxe Hosting - Linux - Renewal - 1 year Length: 1 Period(s)		\$83.88	\$83.88	1	\$.00	\$83.88
10067-1	Bandwidth Renewal Length: 1 month(s)		\$.00	\$.00	1	\$.00	\$.00
W W 1110 1110 11						ototal:	\$83.88

\$.00 Shipping & Handling:

\$.00 Tax:

Total (US Dollars): \$83.88

From: Sent: Jen Rotar [jen@websitesbyjen.com] Friday, October 22, 2010 11:14 AM

To:

jyachik@berthoud.org

Subject:

FW: gwest info

Good morning Officer Yachik,

Per our discussion yesterday, I made 2 phone calls to Qwest – one last night & one this morning in regards to my account.

Last night I spoke with Beatrice in the normal internet tech support dept.

She gave me the current IP address for my account as 184-96-95-199.

She did not have any record of the IP number you gave me in my account information.

Nor was there any reference to anyone accessing my account in the last three months except for a call I made when our internet was down on August 28th.

I asked if there was any way I could give her an IP number and find out if it was associated with me - NO I asked if there was any way a person could look up my personal Qwest account information based on IP on the web - NO

I asked if there was any other number to call or any other department that handled IP info – NO In order to get my own current IP address, I had to provide my name, phone number, billing address and last 4 digits of my SSN.

I called again this morning and spoke with Doug (operator #DXTHO20) in the "advanced guru tech support dept". I had to provide my name, phone number, billing address and last 4 digits of my SSN.

He said that he could see a list of IPs that had been associated with my account, but that they do not include date ranges.

He said there was no IP on the list that matched the number you gave me yesterday.

He also said that no one had accessed my account to view personal data other than last night (Beatrice) and when I called in on August 28th.

He said that if any operator signed in to view my personal information, their operator data would be captured and that they would be required to enter a note in the account about the purpose of the call.

There is no record of Mr. Bauer accessing my Qwest data unless he did it in some roundabout way and violated the privacy of my personal account.

I do not know why Mr. Bauer is convinced that I did some harm to the Berthoud Main Street web site and I am extremely upset and distressed about this matter. I have worked on the site since 2005 as a volunteer and have communicated directly with both John Bauer and Eric Boyd during that time. I have copies of all my email messages from various members of the Main Street board requesting work on the site, up until January of this year when I told Eric that I would no longer be able to volunteer but would be available for professional hire. I will forward you a copy of that email correspondence. Throughout the existence of the site, I have had a very cordial relationship with all the members of the board I had direct contact with , and I have absolutely no animosity towards the Main Street program.

I value both my business and personal reputations very highly. All my business is based on referral and I have always had good relationships with my clients. I volunteer a tremendous amount of time in the community in web development and serving on various committees. I would never do anything to tarnish my own business reputation or track record as a volunteer.

As far as I can tell, the BerthoudMainStreet.org site is exactly as I left in when I last updated it in 2007. If the web site truly had technical issues in August, Mr. Bauer should have called me directly and I could have looked at the account

then and determined the exact nature of the problem and helped him. It is absolutely ridiculous to me that he contacted the police department about this. I believe that Mr. Bauer has a personal issue towards me due to my involvement in Citizens First – an organization that demands transparency and accountability from our public officials - and that he is simply seeking to discredit me in public.

Once you have completed your report, I would like to receive a copy. I'm sorry that your valuable time has been taken up with this matter. Mike Hart and Mayor Patterson have both been informed of this issue.

Jen Rotar www.WebsitesByJen.com 970-532-4320

COUNTY COURT	
COUNTY OF LARIMER	
STATE OF COLORADO	
NO.:	

COURT ORDER FOR PRODUCTION OF RECORDS

To: Qwest Corporation 1801 California St. 11th Floor Denver, CO 80202

The court, upon review of an affidavit filed by Jeremy Yachik, a peace officer in support of the issuance of this order, hereby orders the production of the following records, for which there is probable cause to believe are in your actual or constructive possession or control:

Subscriber information for IP Address 174.29.150.58 on August 11^{th} 2010 at 1445hrs (2:45pm).

The court also hereby finds probable cause to believe that the requested material constitutes records:

Which are or have been used as a means of committing a criminal offense;

Which would be material evidence in a subsequent criminal prosecution in this state, another state, or federal court;

and that such grounds and probable cause support the issuance of this order pursuant to $\S16\text{-}3\text{-}301.1.C.R.S.$

Pursuant to §16-3-301.1, C.R.S., the above-named business entity shall produce the above-described records within 30 days after the date this court order is served. The records shall be delivered to the Colorado criminal investigator or peace officer named in this order during normal business hours. The records shall be supplied in any form or format that is convenient for the business entity and that may be accessed by the named officer or the officer's agency or department. The business entity shall also provide a notarized statement that the records produced represent complete and accurate copies of all records identified in this order that are in the actual or constructive control of the business entity. If the business entity does not produce all records identified in this order, it shall identify the records not produced. Failure to comply with this order shall support a finding of contempt of court.

Pursuant to §16-3-301.1, C.R.S., the peace officer named below is hereby authorized to serve this order during normal business hours of the above-named business entity, and to receive the records during normal business hours of the business entity. Service shall issue in the same manner as a summons under C.R.C.P.4 or by personal service on a manager or supervisor of the business entity. This order must be served within 10 days after the date it is issued. Upon receiving the records from the business entity, the criminal investigator or officer shall file a return and inventory with the court indicating the records that have been received, the total number of pages if supplied on paper, and the date upon which the records were received. The investigator or officer shall also file the original of the attestation of authenticity and completeness with the court.

All records shall be produced to:

Officer Jeremy Yachik Berthoud Police Department 328 Massachusetts Ave. Berthoud, CO 80513

Phone: 970-532-2611 Fax: 970-532-3534

Email: Jyachik@berthoud.org

Further orders which the court deems necessary:

Dated this 29 day of Ostola, 2010. It 3156 pm

By the Court:

Judge

ROBERT A. RAND County Court Judge

From:

Weathermon, Lavonne [Lavonne.Weathermon@qwest.com]

Sent:

Monday, November 01, 2010 11:48 AM

To:

'Jyachik@berthoud.org'

Subject:

237222 - Qwest Subpoena Response

Attachments:

237222.doc; 237222 11-8-10 IP.tif

Attached please find all records in Qwest's possession, custody and control that Qwest can legally provide in response to your demand. Please call with any questions

Lavonne Weathermon | Senior Security Specialist Qwest | Security Response Center 1801 California St., 11th Floor | Denver, CO 80202 303-992-0295 | Lavonne.Weathermon@qwest.com

This communication is the property of Qwest and may contain confidential or privileged information. Unauthorized use of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please immediately notify the sender by reply e-meil and destroy all copies of the communication and any attachments



Tracking Number: 237222

Subscriber/Billing Information, User Id, email Address, any user/connection logs:

IP and Time Frame Requested: 174.29.150.58 on August 11th, 2010 at 14:34 (2:45pm)

14:34:00 Wednesday August 11, 2010 in America/Denver converts to 20:34:00 Wednesday August 11, 2010 in GMT

Connection Log (GMT):

Start End

User

IP Address

06/16/10 17:35:20 08/27/10 22:44:33 rdjennifer1002

174.29.150.58

Userid: rdjennifer1002

Email:ROTARJEN@MSN.COM

BTN: 970 532-4320

Subscriber Information:

Rotar, Dan & Jennifer 110 COMMON DR, BERTHOUD CO 80513-2622